

Appendix

(Please note: deletions are reflected by ~~striketrough~~ and additions are reflected by underline.)

Rule 38. Special Exceptions to Standard Examinations and Admission Process

(a) In-house Counsel

1. As used in this rule, “in-house counsel” shall refer to an attorney who is employed within the State of Arizona as in-house counsel or a related position for a single for-profit or a non-profit corporation, association, or other organizational entity, which can include its parents, subsidiaries and/or affiliates, the business of which is lawful and is other than the practice of law or the provision of legal services.

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(e) Authorization to Practice Law for Attorneys Volunteering with Approved Legal Services Organizations.

1. Purpose. Attorneys have a responsibility to provide competent legal services for all persons, including those unable to pay for such services. As one means of meeting these legal needs, this rule allows certain attorneys who otherwise are not allowed to practice law in Arizona to volunteer to provide civil legal assistance to individuals who are unable to pay for such services.

An attorney who is or was admitted to practice law for at least five (5) years in the courts of any state, district, or territory of the United States may be admitted to practice for the limited purpose of providing assistance as an unpaid volunteer in association with an approved legal services organization so long as that organization employs at least one Arizona attorney not admitted pursuant to any provision of this rule.

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3. Certification. An attorney who seeks authorization to practice law under this rule shall file with the clerk of the Supreme Court of Arizona an application including:

A. a certificate from the highest court or agency in the state, territory, or district in which the applicant is presently licensed to practice law documenting that

the applicant has fulfilled the requirements of active bar members for at least five years preceding the date of the application, and that the applicant has not been disciplined for professional misconduct by the bar or highest court of the state, territory, or district during the last 5 years; provided that an attorney who is registered as in-house counsel pursuant to Rule 38(~~ah~~) shall fulfill this requirement by providing a copy of his or her current Arizona Certification of Registration of In-House Counsel;

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(h) Practice Pending Admission on Motion

1. An applicant who meets the requirements of paragraph (f) of Rule 34 and whose application for admission on motion has been filed and deemed complete by the Committee on Character and Fitness may provide legal services in Arizona through an office or other place for the regular practice of law in Arizona for no more than 365 days, provided that the applicant:

A. does not cease to be a member in good standing in every jurisdiction, foreign or domestic, wherever admitted to practice law;

B. does not become subject to lawyer discipline or the subject of a disciplinary matter in any other jurisdiction;

C. has never been denied admission on character and fitness grounds in any jurisdiction;

D. reasonably expects to fulfill all of Arizona's requirements for admission on motion;

E. associates with and is supervised by an attorney who is admitted to practice law in Arizona, and discloses in his or her application for admission on motion the name, address, and membership status of that attorney;

F. provides with his application for admission on motion a signed verification from the Arizona attorney certifying the applicant's association with and supervision by that attorney;

G. includes in all written communications with the public and clients the following language: "Arizona practice temporarily authorized pending admission under Ariz. R. Sup. Ct. 38(h). Supervision by [name of Arizona attorney], a member of the State Bar of Arizona"; and

H. pays the annual assessment to the Client Protection Fund in the amount assessed to non-exempt active and inactive members, as set by the Supreme Court for the applicable year.

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COMMENT

~~This rule requires that lawyers not admitted to practice in Arizona, but who are employed in the State by an entity or one of its specified affiliates as “in-house counsel,” as that term is defined, register annually with the State Bar of Arizona. The rule's registration requirement is only intended to apply to those lawyers who are employed in that capacity by an entity conducting activities within the State, and whose principal office is located within the physical boundaries of the State. It is not intended to apply to those employed in such a capacity whose physical presence in the State is temporary or sporadic.~~

This rule requires annual registration with the State Bar of Arizona for lawyers who are not admitted to practice in Arizona, but who are employed in Arizona by an entity or one of its specified affiliates as “in-house counsel,” as that term is defined in this rule. The registration requirements of this rule apply only to lawyers: (1) who are employed as in-house counsel by an entity that conducts activities within the State; and (2) who either have a principal office physically located in the State, or will otherwise be systematically and continuously present in the State on behalf of their employer. The registration requirements of this rule do not apply to in-house counsel whose presence in the State is only temporary or sporadic.